
IN THE

United States Circuit Court of Appeals

FOR THE NINTH CIRCUIT. ^b

DALLAS MACHINE & LOCOMOTIVE WORKS,
INC., a corporation,

Appellant,

vs.

WILLAMETTE-HYSTER COMPANY, a corpo-
ration, and CLARK & WILSON LUMBER
COMPANY, a corporation,

Appellees.

No. 9342.

REPLY TO PETITION FOR REHEARING.

ALBERT G. McCALEB,
AUSTIN F. FLEGEL, JR.,
for Appellees.

FILED

JUL - 5 1940

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The Petition for Rehearing should be denied because

1. It makes no attempt to distinguish the Gerlinger patent claim~~l~~ in suit from the rule of *Hailes v. VanWormer*, 87 U. S. (20 Wall.) 353, 368, and *Lincoln Co. v. Stewart-Warner Corp.*, 303 U. S. 545, 549, upon which your Honors relied in deciding this case.

2. It merely restates once again certain contentions, with respect to the questions of anticipation and invention, which are not germane to the aggregation defense which your Honors sustained.

Respectfully submitted,

ALBERT G. McCALEB,

AUSTIN F. FLEGEL, JR.,

for Appellees.